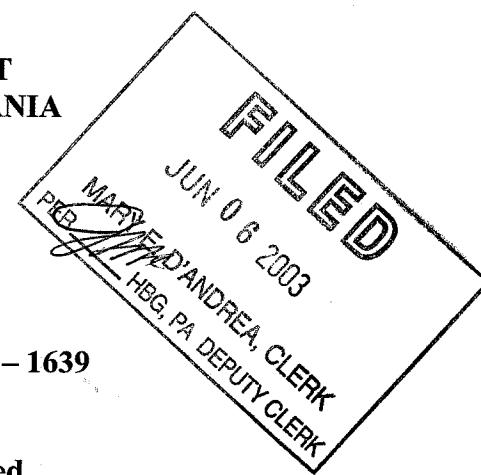


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**ORIGINAL**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JOHN D. PERKEY and</b>	:
<b>THERESA M. PERKEY</b>	:
<b>Plaintiffs</b>	
 vs.	
<b>RELIABLE CARRIERS, INC.,</b>	:
<b>DANIEL JOSEPH BEMBEN,</b>	:
<b>and KENT,</b>	:
<b>Defendants</b>	

<b>Civil Action</b>
<b>Number 1: CV - 00 - 1639</b>
 <b>Jury Trial Demanded</b>
 <b>Magistrate Judge Smyser</b>



**BRIEF OF JOHN D. PERKEY AND THERESA M. PERKEY  
IN OPPOSITION TO MOTION IN LIMINE  
PRECLUDING PLAINTIFF'S ECONOMIC EXPERT**

**A. Procedural History and Facts:**

The Plaintiff, John D. Perkey, was injured in an accident on the Pennsylvania Turnpike on September 15, 1998, when the rear wheels of the Defendant's tractor became dislodged and struck the tractor and trailer driven by the Plaintiff, John D. Perkey.

A Complaint was filed by the Plaintiff on September 14, 2000. The Defendant has filed an Answer with certain Affirmative Defenses on January 29, 2001. The parties are now completing their preparation for trial. The Plaintiffs were served with the Motion in Limine seeking to exclude their economic expert along with a supporting Brief.

**B. Issue:**

Whether the Plaintiff's Economic Expert should be allowed to testify at trial.

**Suggested Answer:** Yes

**C. Argument:**

The Plaintiff, John D. Perkey, is fifty-four (54) years of age. Dr. Rychak as well as his other physicians agree that he is unable to return to his pre-accident employment as an over the road truck driver. The Plaintiff has not been able to engage in any employment since the date of the accident and is receiving social security disability based upon a determination that he is totally disabled.

The opinion of Mr. Lester, the Plaintiff's economic expert, is based upon the present status of the Plaintiff. He is not expected to improve and further surgery is not an option for him. The Defendants have hired their own expert and the Plaintiff, John D. Perkey, has submitted to an examination and evaluation.

These expert reports are to be weighed by the jury in light of the testimony of the Plaintiff and the experts, both medical and economic. It is simply improper to ban the Plaintiff's economic expert at this time. There is no dispute that the Plaintiff is unable to return to his over the road trucking position. The loss of his income as well as his benefits is inappropriate.

**D. Conclusion:**

The Plaintiff's economic expert, Harry Leister, should be permitted to testify and it is for the jury to weigh his evidence based upon all the evidence presented to it.

Respectfully submitted,

**IRWIN, McKNIGHT & HUGHES**



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Attorney for Petitioner  
John D. Perkey

Date: June 6, 2003

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JOHN D. PERKEY and</b>	:	
<b>THERESA M. PERKEY</b>	:	
<b>Plaintiffs</b>		:
vs.		:
		:
<b>RELIABLE CARRIERS, INC.,</b>	:	
<b>DANIEL JOSEPH BEMBEN,</b>	:	
<b>and KENT,</b>	:	
<b>Defendants</b>		:
		<b>Civil Action</b>
		<b>Number 1: CV - 00 - 1639</b>
		:
		<b>Magistrate Judge Smyser</b>

**CERTIFICATE OF SERVICE**

I, Marcus A. McKnight, III, Esquire, hereby certify that a copy of attached Brief was served upon the following by depositing a true and correct copy of the same in the United States mail, First Class, postage prepaid in Carlisle, Pennsylvania, on the date referenced below and addressed as follows:

E. Ralph Godfrey, Esquire  
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**IRWIN, McKNIGHT & HUGHES**

By:   
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Supreme Court I.D. No. 25476

Date: June 6, 2003